

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

CAMPAIGN FOR ACCOUNTABILITY,
611 Pennsylvania Avenue SE, #337
Washington, DC 20003,

Plaintiff,

v.

**U.S. DEPARTMENT OF HEALTH AND
HUMAN SERVICES,**
200 Independence Avenue SW
Washington, DC 20201,

Defendant.

Case No. 18-cv-465

COMPLAINT

1. Plaintiff Campaign for Accountability brings this action against the U.S. Department of Health and Human Services under the Freedom of Information Act, 5 U.S.C. § 522 (“FOIA”), and the Declaratory Judgement Act, 28 U.S.C. §§ 2201 and 2202, seeking declaratory and injunctive relief to compel compliance with the requirements of FOIA.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331, 2201 and 2202.

3. Venue is proper in this district under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391(e).

4. Because Defendant failed to comply with the applicable time-limit provisions of FOIA, Campaign for Accountability is deemed to have exhausted its administrative remedies pursuant to 5 U.S.C. § 552(a)(6)(C)(i) and is now entitled to judicial action enjoining Defendant from continuing to withhold records and ordering the production of records improperly held.

PARTIES

5. Plaintiff Campaign for Accountability (“CfA”) is a non-partisan organization primarily engaged in disseminating information to the public. CfA uses research, litigation, and communications to expose misconduct and malfeasance in public life. Through research and FOIA requests, CfA uses the information gathered, and its analysis of it, to educate the public about the activities and operations of the federal government, local and state governments, and other public actors through reports, press releases and other media.

6. Defendant the U.S. Department of Health and Human Services (“HHS”) is a department of the executive branch of the U.S. government, headquartered in Washington, D.C., and an agency of the federal government within the meaning of 5 U.S.C. § 552(f)(1). HHS has possession, custody, and control of the records that CfA seeks.

STATEMENT OF FACTS

7. On November 8, 2017 and November 13, 2017, CfA submitted FOIA requests to HHS seeking documents and records related to Defendant’s relationship and/or the relationship of certain HHS political appointees with certain non-profit organizations promoting conservative values on reproductive rights.

8. The public deserves the opportunity to determine whether and to what extent these organizations have attempted to influence HHS as it counsels the Trump administration and Congress on issues related to reproductive and religious liberties. These matters are of paramount public concern.

9. The specifics of each request are set out in detail below.

November 8 Department of Health and Human Services FOIA Request

10. On November 8, 2017, CfA submitted a FOIA request to HHS (“November 8 HHS FOIA Request”) seeking:

- a. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials received by HHS from, sent by HHS to, or exchanged between HHS and Valerie Huber from January 20, 2017 to the date of her hire, on or around June 6, 2017.
- b. All calendar entries reflecting meetings between HHS and Valerie Huber from January 20, 2017 to the date of her hire, on or around June 6, 2017.
- c. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials exchanged between Valerie Huber, chief of staff to the assistant secretary for health at HHS, and any representatives of Ascend or its predecessor organization, the National Abstinence Education Association, from the date of her hire, on or around June 6, 2017, to the date the search is conducted.
- d. All calendar entries reflecting meetings between Valerie Huber and any representatives of Ascend or its predecessor organization, the National Abstinence Education Association, from the date of her hire, on or around June 6, 2017, to the date the search is conducted.
- e. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials received by HHS from, sent by HHS to, or exchanged between HHS and Charmaine Yoest from January 20, 2017 to the date of her hire, on or around April 28, 2017.

- f. All calendar entries reflecting meetings between HHS and Charmaine Yoest from January 20, 2017 to the date of her hire, on or around April 28, 2017.
- g. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials exchanged between Charmaine Yoest, assistant secretary of public affairs at HHS, and any representatives of Americans United for Life, American Values, and Family Research Council, from the date of her hire, on or around April 28, 2017, to the date the search is conducted.
- h. All calendar entries reflecting meetings between Charmaine Yoest and any representatives of Americans United for Life, American Values, and Family Research Council, from the date of her hire, on or around April 28, 2017, to the date the search is conducted.
- i. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials received by HHS from, sent by HHS to, or exchanged between HHS and Teresa Manning from January 20, 2017 to the date of her hire, on or around May 2, 2017.
- j. All calendar entries reflecting meetings between HHS and Teresa Manning from January 20, 2017 to the date of her hire, on or around May 2, 2017.
- k. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials exchanged between Teresa Manning, deputy assistant secretary for population affairs, and any representatives of Family Research Council and National Right to Life, from the date of her hire, on or around May 2, 2017, to the date the search is conducted.
- l. All calendar entries reflecting meetings between Teresa Manning and any representatives of Family Research Council and National Right to Life, from the date of her hire, on or around May 2, 2017, to the date the search is conducted.
- m. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials received by HHS from, sent by HHS to, or exchanged between HHS and Matthew Bowman from January 20, 2017 to the date of his hire, on or around July 10, 2017.
- n. All calendar entries reflecting meetings between HHS and Matthew Bowman from January 20, 2017 to the date of his hire, on or around July 10, 2017.

- o. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials exchanged between Matthew Bowman, counsel at HHS, and any representatives of Alliance Defending Freedom, from the date of his hire, on or around July 10, 2017, to the date the search is conducted.
- p. All calendar entries reflecting meetings between Matthew Bowman and any representatives of Alliance Defending Freedom, from the date of his hire, on or around July 10, 2017, to the date the search is conducted.

11. A copy of the November 8 HHS FOIA Request is attached hereto as Exhibit A and incorporated herein.

12. The November 8 HHS FOIA Request was assigned tracking number **2018-00218-FOIA-OS**. As of February 21, 2018, the status of the request was listed as “Assigned for Processing.” CfA has not received any further communication from HHS regarding this request.

November 13 Department of Health and Human Services FOIA Request

13. On November 13, 2017, CfA submitted a FOIA request to HHS (“November 13 HHS FOIA Request”) seeking:

- a. All calendar entries for Paula Stannard, Senior Advisor to the Secretary.
- b. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other documents exchanged between Paula Stannard and any representatives of the Susan B. Anthony List, Concerned Women for America, the Heritage Foundation, Family Research Council, Americans United for Life, National Right to Life, Alliance Defending Freedom, Christian Coalition and/or March for Life. The request includes communications to or from anyone using email addresses from the following domains:
 - @sba-list.org
 - @cwfa.org
 - @heritage.org
 - @frc.org
 - @aul.org
 - @nrlc.org
 - @adflegal.org

- @cc.org
- @marchforlife@org

- c. All calendar entries for Heidi Stirrup, Deputy White House Liaison for Political Personnel, Boards and Commissions.
- d. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other documents exchanged between Heidi Stirrup and any representatives of the Susan B. Anthony List, Concerned Women for America, the Heritage Foundation, Family Research Council, Americans United for Life, National Right to Life, Alliance Defending Freedom, Christian Coalition and/or March for Life. The request includes communications to or from anyone using email addresses from the following domains:
 - @sba-list.org
 - @cwfa.org
 - @heritage.org
 - @frc.org
 - @aul.org
 - @nrlc.org
 - @adflegal.org
 - @cc.org
 - @marchforlife@org

14. The request sought all responsive records from January 20, 2017, to the date of the search. A copy of the November 13 HHS FOIA Request is attached hereto as Exhibit B and incorporated herein.

15. As of the date of this Complaint, CfA has not received a written acknowledgement or response to the November 13 HHS FOIA Request.

Exhaustion of Administrative Remedies

16. Through HHS's failure to produce the requested documents or otherwise respond within twenty business days, CfA has exhausted its administrative remedies under 5 U.S.C. § 552(a)(6)(C)(i) and seeks immediate judicial review.

17. As of the date of this Complaint, Defendant has failed to (a) notify CfA of any determination regarding the requests, including the scope of any responsive records Defendant intends to produce or withhold and the reasons for any withholdings; or (b) produce the requested records or demonstrate that the requested records are lawfully exempt from production.

COUNT I
Violation of FOIA, 5 U.S.C. § 552
Failure to Conduct Adequate Search for Responsive Records

18. CfA repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth therein.

19. CfA properly requested records within the possession, custody, and control of the Defendant.

20. Defendant is an agency subject to FOIA and must, therefore, make reasonable efforts to search for the requested records.

21. Defendant has failed to promptly review agency records for the purpose of locating those records which are responsive to CfA's FOIA requests.

22. Defendant's failure to conduct adequate searches for responsive records violates FOIA.

23. Plaintiff CfA is, therefore, entitled to injunctive and declaratory relief requiring Defendant to promptly make reasonable efforts to search for records responsive to CfA's FOIA requests.

COUNT II

Violation of FOIA, 5 U.S.C. § 552

Wrongful Withholding of Non-Exempt Responsive Records

24. CfA repeats the allegations in the foregoing paragraphs and incorporates them as though fully set forth herein.

25. CfA properly requested records within the possession, custody and control of Defendant.

26. Defendant is an agency subject to FOIA and, therefore, must release in response to a FOIA request any non-exempt records and provide a lawful reason for withholding any materials.

27. Defendant is wrongfully withholding non-exempt agency records requested by CfA by failing to produce non-exempt records responsive to its FOIA requests.

28. Defendant is wrongfully withholding non-exempt agency records requested by CfA by failing to segregate exempt information in otherwise non-exempt records responsive to CfA's FOIA requests.

29. Defendant's failure to provide all non-exempt responsive records violates FOIA.

30. Plaintiff CfA is, therefore, entitled to declaratory and injunctive relief requiring Defendant to promptly produce all non-exempt records responsive to its FOIA requests and provide indices justifying the withholding of any responsive records withheld under claim of exemption.

REQUESTED RELIEF

31. WHEREFORE, CfA respectfully requests the Court to:
- a. Order Defendant to conduct searches reasonably calculated to uncover all records responsive to CfA's FOIA requests;
 - b. Order Defendant to produce, within twenty days of the Court's order, or by such other date as the Court deems appropriate, any and all non-exempt records responsive to CfA's FOIA requests and indices justifying the withholding of any responsive records withheld under claim of exemption;
 - c. Enjoin Defendant from continuing to withhold any and all non-exempt records responsive to CfA's FOIA requests;
 - d. Award CfA the costs of this proceeding, including reasonable attorneys' fees and other litigation costs reasonably incurred in this action, pursuant to 5 U.S.C. § 552(a)(4)(E); and
 - e. Grant CfA such other relief as the Court deems just and proper.

Dated: February 27, 2018

Respectfully submitted,

BAKER & HOSTETLER LLP

By: s/ Carey S. Busen
Carey S. Busen (DC Bar: 982217)
cbusen@bakerlaw.com

1050 Connecticut Avenue, NW
Suite 1100
Washington, D.C. 20036-5403

Attorneys for Plaintiff
CAMPAIGN FOR ACCOUNTABILITY,
611 Pennsylvania Avenue SE, #337
Washington, DC 20003

EXHIBIT A

FOIA request

KO ✓

Katie O'Connor

Wed 11/8/2017, 10:52 AM

FOIARequest@hhs.gov ✕



Reply all | ✓

FOIA

You forwarded this message on 2/12/2018 11:52 AM

CfA FOIA-HHS-Emplo... ✕

490 KB

✕ Show all 1 attachments (490 KB) Download Save to OneDrive - Campaign for Accountability

To whom it may concern:

Attached, please find a Freedom of Information Act Request. Please do not hesitate to contact me with any questions or concerns regarding this request.

Sincerely,
Katie O'Connor

Katie O'Connor
Legal Counsel*
Campaign for Accountability
www.campaignforaccountability.org
[@Accountable_Org](#)

*licensed to practice in Massachusetts and Georgia

C A M P A I G N F O R

ACCOUNTABILITY

November 8, 2017

By email: FOIARequest@hhs.gov

Michael Marquis
Freedom of Information Officer
Department of Health and Human Services
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, DC 20201

Re: Freedom of Information Request

Dear Mr. Marquis:

Campaign for Accountability (“CfA”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552, et seq., and Department of Health and Human Services (“HHS”) implementing regulations, 45 C.F.R. Part 5.

Specifically, CfA requests that HHS produce the following within 20 business days:

1. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials received by HHS from, sent by HHS to, or exchanged between HHS and Valerie Huber from January 20, 2017 to the date of her hire, on or around June 6, 2017.
2. All calendar entries reflecting meetings between HHS and Valerie Huber from January 20, 2017 to the date of her hire, on or around June 6, 2017.
3. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials exchanged between Valerie Huber, chief of staff to the assistant secretary for health at HHS, and any representatives of Ascend or its predecessor organization, the National Abstinence Education Association, from the date of her hire, on or around June 6, 2017, to the date the search is conducted.
4. All calendar entries reflecting meetings between Valerie Huber and any representatives of Ascend or its predecessor organization, the National Abstinence Education Association, from the date of her hire, on or around June 6, 2017, to the date the search is conducted.
5. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials received by HHS from, sent by HHS to, or exchanged between HHS and Charmaine Yoest from January 20, 2017 to the date of her hire, on or around April 28, 2017.
6. All calendar entries reflecting meetings between HHS and Charmaine Yoest from January 20, 2017 to the date of her hire, on or around April 28, 2017.

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7. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials received exchanged between Charmaine Yoest, assistant secretary of public affairs at HHS, and any representatives of Americans United for Life, American Values, and Family Research Council, from the date of her hire, on or around April 28, 2017, to the date the search is conducted.
8. All calendar entries reflecting meetings between Charmaine Yoest and any representatives of Americans United for Life, American Values, and Family Research Council, from the date of her hire, on or around April 28, 2017, to the date the search is conducted.
9. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials received by HHS from, sent by HHS to, or exchanged between HHS and Teresa Manning from January 20, 2017 to the date of her hire, on or around May 2, 2017.
10. All calendar entries reflecting meetings between HHS and Teresa Manning from January 20, 2017 to the date of her hire, on or around May 2, 2017.
11. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials exchanged between Teresa Manning, deputy assistant secretary for population affairs, and any representatives of Family Research Council and National Right to Life, from the date of her hire, on or around May 2, 2017, to the date the search is conducted.
12. All calendar entries reflecting meetings between Teresa Manning and any representatives of Family Research Council and National Right to Life, from the date of her hire, on or around May 2, 2017, to the date the search is conducted.
13. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials received by HHS from, sent by HHS to, or exchanged between HHS and Matthew Bowman from January 20, 2017 to the date of his hire, on or around July 10, 2017.
14. All calendar entries reflecting meetings between HHS and Matthew Bowman from January 20, 2017 to the date of his hire, on or around July 10, 2017.
15. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials exchanged between Matthew Bowman, counsel at HHS, and Alliance Defending Freedom, from the date of his hire, on or around July 10, 2017, to the date the search is conducted.
16. All calendar entries reflecting meetings between Matthew Bowman and Alliance Defending Freedom, from the date of his hire, on or around July 10, 2017, to the date the search is conducted.

By way of background, prior to her employment with HHS, Valerie Huber served as president and CEO of Ascend, formerly known as the National Abstinence Education Association (“NAEA”).¹ Charmaine Yoest, before beginning work at HHS, served as president and CEO of Americans United for Life, as a senior fellow with American Values, and as vice president of

¹ Jessie Hellmann, *Abstinence education advocate named to HHS post*, *The Hill*, June 6, 2017, available at <http://thehill.com/policy/healthcare/336620-abstinence-education-advocate-named-to-hhs-post>.

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Family Research Council.² Teresa Manning came to HHS after serving as a legislative analyst for Family Research Council and as a lobbyist for National Right to Life.³ Immediately before his tenure at HHS, Matthew Bowman served as senior legal counsel at Alliance Defending Freedom.⁴

Each of these organizations – Ascend, Americans United for Life, American Values, Family Research Council, and National Right to Life – has sought to influence this new Congress and administration. For instance, American Values and Family Research Council joined the “Pro-Life Coalition” in support of the Trump-Pence ticket.⁵ American Values met with Vice President Pence on the eve of the March for Life,⁶ National Right to Life met with Speaker Paul Ryan to discuss “advancing a conservative agenda,”⁷ and both organizations have met with President Trump to discuss his agenda in Congress, including the nomination and confirmation of Justice Neil Gorsuch.⁸ Now, representatives from these organizations work for the American public as employees of HHS. As such, the public deserves to know how these HHS employees sought to influence the agency prior to their hires, and whether and to what extent their former employers now to seek to influence them within the agency.

In addition to the records requested above, please provide records reflecting the processing of this request, including any tracking sheets; records sufficient to identify search terms used, and locations and custodians searched. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

CfA seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our

² Rachana Pradhan, *Trump names anti-abortion leader Yoest to top HHS post*, *Politico*, April 28, 2017, available at <http://www.politico.com/story/2017/04/28/charmaine-yoest-assistant-secretary-of-public-affairs-hhs-237743>

³ Juliet Eilperin, *Trump picks antiabortion activist to head HHS family planning section*, *The Washington Post*, May 2, 2017, available at <https://www.washingtonpost.com/news/powerpost/wp/2017/05/01/trump-picks-antiabortion-activist-to-head-hhs-family-planning-program/>.

⁴ Robert Pear, *Foes of Obama-Era Rule Work to Undo Birth Control Mandate*, *New York Times*, July 10, 2017, available at <https://www.nytimes.com/2017/07/10/us/politics/birth-control-contraception-health-care-bill.html>.

⁵ Press Release, The Susan B. Anthony List, *Trump Campaign Announces National Co-Chairs of Pro-Life Coalition*, Sept. 27, 2016, available at <https://www.sba-list.org/newsroom/press-releases/trump-campaign-announces-national-co-chairs-pro-life-coalition>.

⁶ Elizabeth Dias, *Inside Mike Pence’s Private Meeting with March for Life Leaders*, *Time*, Jan. 27, 2017, available at <http://time.com/4651781/mike-pence-march-life-meeting-abortion/>.

⁷ Press Release, Office of the Speaker of the House Paul Ryan, *115th Congress, Speaker Ryan Meets with Conservative Leaders*, March 30, 2017, available at <http://www.speaker.gov/press-release/speaker-ryan-meets-conservative-leaders>.

⁸ Wolf (CNN television broadcast Feb. 1, 2017), transcript available at <http://transcripts.cnn.com/TRANSCRIPTS/1702/01/wolf.02.html>.

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request includes any attachments to these records. No category of material should be omitted from search, collection, and production.

Please search all records regarding agency business. Please do not exclude searches of files or emails in the personal custody of agency officials, such as personal email accounts. Records of official business conducted using unofficial systems or stored outside of official files is subject to the Federal Records Act and FOIA.⁹ It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; CfA has a right to access those files even if they have not yet been moved to official systems or if officials have, through negligence or willfulness, failed to meet their obligations.¹⁰

In addition, please note that in conducting a “reasonable search” as required by law, HHS must employ the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology may have rendered HHS’s prior FOIA practices unreasonable. In light of the government-wide requirements to manage information electronically by the end of 2016, it is no longer reasonable to rely exclusively on custodian-driven searches.¹¹ Furthermore, agencies that have adopted the National Archives and Records Agency (NARA) Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians’ files. For example, a custodian may have deleted a responsive email from his or her email program, but HHS’s archiving tools would capture that email under Capstone. Accordingly, CfA insists that HHS use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. CfA is available to work with HHS to craft appropriate search terms. However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information “only if . . . disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.”¹² If it is your position that any portion of the requested records is exempt from disclosure, CfA requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415

⁹ See *Competitive Enterprise Institute v. Office of Science & Tech. Policy*, 827 F.3d 145, 149–150 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955–956 (D.C. Cir. 2016).

¹⁰ See *Competitive Enterprise Institute v. Office of Science & Tech. Policy*, ___, slip op. at 8 (D.D.C. Dec. 12, 2016) (“The Government argues that because the agency had a policy requiring [the official] to forward all of his emails from his [personal] account to his business email, the [personal] account only contains duplicate agency records at best. Therefore, the Government claims that any hypothetical deletion of the [personal account] emails would still leave a copy of those records intact in [the official’s] work email. However, policies are rarely followed to perfection by anyone. At this stage of the case, the Court cannot assume that each and every work-related email in the [personal] account was duplicated in [the official’s] work email account.” (citations omitted)).

¹¹ Presidential Memorandum – Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), *available at* <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), *available at* <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

¹² *FOIA Improvement Act of 2016* § 2 (Pub. L. No. 114–185).

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U.S. 977 (1974). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.”¹³ Moreover, the *Vaughn* index “must describe *each* document or portion thereof withheld, and for *each* withholding it must discuss the consequences of disclosing the sought-after information.”¹⁴ Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”¹⁵

In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document.¹⁶ Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, CfA welcomes an opportunity to discuss its request with HHS before you undertake your search or incur search or duplication costs. By working together at the outset, CfA and HHS can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format via email at koconnor@campaignforaccountability.org. Alternatively, our mailing address is Campaign for Accountability, 611 Pennsylvania Avenue SE, #337, Washington DC 20003. If it will accelerate the release, please also provide responsive material on rolling basis.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 45 C.F.R. § 5.54, CfA requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute significantly to a better understanding of relevant government procedures by the general public. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii).¹⁷

CfA requests a waiver of fees because disclosure of the requested information is in the public interest because it is “likely to contribute significantly to public understanding of the operations

¹³ *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).

¹⁴ *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223–24 (D.C. Cir. 1987) (emphasis in original).

¹⁵ *Id.* at 224 (citing *Mead Data Central, Inc. v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977)).

¹⁶ *Mead Data Central*, 566 F.2d at 261.

¹⁷ *See, e.g., McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

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or activities of the government.”¹⁸ The disclosure of the information sought under this request will document and reveal the operations of the federal government, including how officials conduct the public’s business.

As noted above, the four HHS employees whose communications are the subject of this request each came to HHS from ideologically-driven organizations who often sought to influence the policies being promoted by this Congress and this administration. Some of those policies are enormously consequential to the American public. Since these HHS employees are now employed on behalf of the American public, the public has a right to know how their former organizations influenced and continue to influence HHS.

This request is primarily and fundamentally for non-commercial purposes. As a 501(c)(3) organization, CfA does not have a commercial purpose and the release of the information requested is not in CfA’s financial interest. CfA is committed to protecting the public’s right to be aware of the activities of government officials and to ensuring the integrity of those officials. CfA uses a combination of research, litigation, and advocacy to advance its mission. CfA will analyze the information responsive to this request, and will share its analysis with the public, either through memoranda, reports, or press releases. In addition, CfA will disseminate any documents it acquires from this request to the public through its website, www.campaignforaccountability.org.

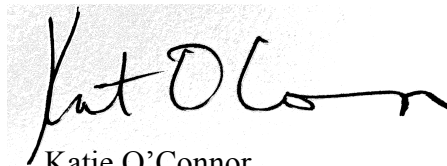
Accordingly, CfA qualifies for a fee waiver.

Conclusion

CfA looks forward to working with HHS on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact me at 202-780-5750. Further, if CfA’s request for a fee waiver is not granted in full, please contact me immediately upon making such a determination.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Katie O'Connor", is written over a light gray rectangular background.

Katie O'Connor
Legal Counsel

¹⁸ 45 C.F.R. § 5.54(a).

EXHIBIT B

freedom of information request

KO ✓

Katie O'Connor

Mon 11/13/2017, 12:48 PM

FOIARequest@hhs.gov ✓



Reply all | ✓

FOIA

You forwarded this message on 2/12/2018 11:53 AM

CfA FOIA-HHS-Stirru... ✓

266 KB

✓ Show all 1 attachments (266 KB) Download Save to OneDrive - Campaign for Accountability

To whom it may concern:

Attached, please find a Freedom of Information Act Request. Please do not hesitate to contact me with any questions or concerns regarding this request.

Sincerely,
Katie O'Connor

Katie O'Connor
Legal Counsel*
Campaign for Accountability
www.campaignforaccountability.org
[@Accountable_Org](#)

*licensed to practice in Massachusetts and Georgia

Pronouns: She, her, hers

C A M P A I G N F O R

ACCOUNTABILITY

November 13, 2017

By email: FOIARequest@hhs.gov

Michael Marquis
Freedom of Information Officer
Department of Health and Human Services
Hubert H. Humphrey Building, Room 729H
200 Independence Avenue, SW
Washington, DC 20201

Re: Freedom of Information Request

Dear Mr. Marquis:

Campaign for Accountability (“CfA”) makes this request for records pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. §§ 552, et seq., and Department of Health and Human Services (“HHS”) implementing regulations, 45 C.F.R. Part 5.

Specifically, CfA requests that HHS produce the following within 20 business days:

1. All calendar entries for Paula Stannard, Senior Advisor to the Secretary.
2. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials exchanged between Paula Stannard and any representatives of the Susan B. Anthony List, Concerned Women for America, the Heritage Foundation, Family Research Council, Americans United for Life, National Right to Life, Alliance Defending Freedom, Christian Coalition, and/or March for Life. This request includes communications to or from anyone using email addresses from the following domains:
 - a. @sba-list.org
 - b. @cwfa.org
 - c. @heritage.org
 - d. @frc.org
 - e. @aul.org
 - f. @nrlc.org
 - g. @adflegal.org
 - h. @cc.org
 - i. @marchforlife.org
3. All calendar entries for Heidi Stirrup, Deputy White House Liaison for Political Personnel, Boards and Commissions.
4. All communications, meeting notices, meeting agendas, informational materials, draft legislation, talking points, or other materials exchanged between Heidi Stirrup and any representatives of the Susan B. Anthony List, Concerned Women for America, the

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Heritage Foundation, Family Research Council Americans United for Life, National Right to Life, Alliance Defending Freedom, Christian Coalition, and/or March for Life. This request includes communications to or from anyone using email addresses from the following domains:

- a. @sba-list.org
- b. @cwfa.org
- c. @heritage.org
- d. @frc.org
- e. @aul.org
- f. @nrlc.org
- g. @adflegal.org
- h. @cc.org
- i. @marchforlife.org

Please provide all responsive records from January 20, 2017, to the date the search is conducted.

By way of background, prior to her current tenure at HHS, Paula Stannard worked at Alston and Bird, where she represented Criswell College in its lawsuit challenging the contraceptive mandate under the Affordable Care Act.¹ She also assisted in the drafting of the “Born-Alive Abortion Survivors Protection Act,” which was introduced by Congressman Trent Franks in 2015.²

Heidi Stirrup comes to HHS from the Health Subcommittee of the House Energy and Commerce Committee.³ While serving the subcommittee, Ms. Stirrup staffed the hearings for Congresswoman Marsha Blackburn’s Select Investigative Panel on Infant Lives, which sought to investigate the allegations made against Planned Parenthood in undercover videos by the Center for Medical Progress.⁴ She also staffed a hearing regarding whether the contraceptive mandate under the Affordable Care Act “threaten[ed] conscience rights and access to care.”⁵ Prior to her time in Congress, Ms. Stirrup worked at the Christian Coalition.⁶

Ms. Stannard and Ms. Stirrup have both dedicated much of their careers to issues of reproductive rights and religious liberties. The Susan B. Anthony List, Concerned Women for America, the Heritage Foundation, Family Research Council, Americans United for Life, National Right to Life, Alliance Defending Freedom, Christian Coalition, and March for Life, likewise, have worked in close coordination with members of Congress and with this administration on issues of reproductive rights and religious liberties. Last fall, for instance, the Susan B. Anthony List, Concerned Women for America, and the Family Research Council joined the “Pro-Life

¹ Ally Boguhn, *Religious Imposition Proponents Find an Ally in the White House*, *Rewire*, Apr. 18, 2017, available at <https://rewire.news/article/2017/04/18/religious-imposition-proponents-ally-white-house/>.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Id.*

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Coalition” in support of the Trump-Pence ticket.⁷ Representatives of Concerned Women for America, the Susan B. Anthony List, the Heritage Foundation, and March for Life have met with Vice President Pence⁸ and representatives of the Susan B. Anthony List and National Right to Life have met with Speaker of the House Paul Ryan.⁹ Representatives of the Susan B. Anthony List, Concerned Women for America, and National Right to Life have met with President Trump at least once since the inauguration.¹⁰ In March of this year, representatives of the Heritage Foundation attended the U.N. Commission on the Status of Women meeting as members of the official U.S. delegation.¹¹ The public deserves the opportunity to determine whether and to what extent these organizations, working in coordination with Ms. Stannard and Ms. Stirrup, have attempted to influence HHS as it counsels the administration and Congress on issues related to reproductive rights and religious liberties. The requested records would give the public that opportunity.

In addition to the records requested above, please provide records reflecting the processing of this request, including any tracking sheets; records sufficient to identify search terms used, and locations and custodians searched. If your agency uses FOIA questionnaires or certifications completed by individual custodians or components to determine whether they possess responsive materials or to describe how they conducted searches, we also request any such records prepared in connection with the processing of this request.

CfA seeks all responsive records regardless of format, medium, or physical characteristics. In conducting your search, please understand the terms “record,” “document,” and “information” in their broadest sense, to include any written, typed, recorded, graphic, printed, or audio material of any kind. We seek records of any kind, including electronic records, audiotapes, videotapes, and photographs, as well as letters, emails, facsimiles, telephone messages, voice mail messages and transcripts, notes, or minutes of any meetings, telephone conversations or discussions. Our

⁷ Press Release, The Susan B. Anthony List, Trump Campaign Announces National Co-Chairs of Pro-Life Coalition, Sept. 27, 2016, available at <https://www.sba-list.org/newsroom/press-releases/trump-campaign-announces-national-co-chairs-pro-life-coalition>.

⁸ Christine Grimaldi, Mike Pence Had a Meeting With Anti-Choice Activists He Doesn’t Want You to Know About, *Rewire*, July 11, 2017, available at <https://rewire.news/article/2017/07/11/mike-pence-meeting-anti-choice-activists-doesnt-want-know/>; Elizabeth Dias, Inside Mike Pence’s Private Meeting with March for Life Leaders, *Time*, Jan. 27, 2017, available at <http://time.com/4651781/mike-pence-march-life-meeting-abortion/>; Mike DeBonis and John Wagner, Republicans try to revive health-care effort as leaders seek to temper expectations, *Washington Post*, Apr. 4, 2017, available at https://www.washingtonpost.com/powerpost/with-help-from-pence-house-republicans-suddenly-rekindle-health-care-talks/2017/04/04/91cflc74-192f-11e7-855e-4824bbb5d748_story.html?utm_term=.65f99b29d43e.

⁹ Press Release, Office of the Speaker of the House Paul Ryan, 115th Congress, Speaker Ryan Meets with Conservative Leaders, March 30, 2017, available at <http://www.speaker.gov/press-release/speaker-ryan-meets-conservative-leaders>.

¹⁰ *Wolf* (CNN television broadcast Feb. 1, 2017), transcript available at <http://transcripts.cnn.com/TRANSCRIPTS/1702/01/wolf.02.html>; Rebecca Ballhaus, Trump Again Criticizes Jeff Sessions Over Russia Probe, *Wall Street Journal*, Sept. 26, 2017, available at <https://www.wsj.com/articles/trump-again-criticizes-jeff-sessions-over-russia-probe-1506434848>.

¹¹ Kathryn Joyce, The New War on Birth Control, *Pacific Standard*, Aug. 17, 2017, available at <https://psmag.com/magazine/new-war-on-birth-control>.

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request includes any attachments to these records. No category of material should be omitted from search, collection, and production.

Please search all records regarding agency business. Please do not exclude searches of files or emails in the personal custody of agency officials, such as personal email accounts. Records of official business conducted using unofficial systems or stored outside of official files is subject to the Federal Records Act and FOIA.¹² It is not adequate to rely on policies and procedures that require officials to move such information to official systems within a certain period of time; CfA has a right to access those files even if they have not yet been moved to official systems or if officials have, through negligence or willfulness, failed to meet their obligations.¹³

In addition, please note that in conducting a “reasonable search” as required by law, HHS must employ the most up-to-date technologies and tools available, in addition to searches by individual custodians likely to have responsive information. Recent technology may have rendered HHS’s prior FOIA practices unreasonable. In light of the government-wide requirements to manage information electronically by the end of 2016, it is no longer reasonable to rely exclusively on custodian-driven searches.¹⁴ Furthermore, agencies that have adopted the National Archives and Records Agency (NARA) Capstone program, or similar policies, now maintain emails in a form that is reasonably likely to be more complete than individual custodians’ files. For example, a custodian may have deleted a responsive email from his or her email program, but HHS’s archiving tools would capture that email under Capstone. Accordingly, CfA insists that HHS use the most up-to-date technologies to search for responsive information and take steps to ensure that the most complete repositories of information are searched. CfA is available to work with HHS to craft appropriate search terms. However, custodian searches are still required; agencies may not have direct access to files stored in .PST files, outside of network drives, in paper format, or in personal email accounts.

Under the FOIA Improvement Act of 2016, agencies must adopt a presumption of disclosure, withholding information “only if . . . disclosure would harm an interest protected by an exemption” or “disclosure is prohibited by law.”¹⁵ If it is your position that any portion of the requested records is exempt from disclosure, CfA requests that you provide an index of those documents as required under *Vaughn v. Rosen*, 484 F.2d 820 (D.C. Cir. 1973), *cert. denied*, 415

¹² See *Competitive Enterprise Institute v. Office of Science & Tech. Policy*, 827 F.3d 145, 149—150 (D.C. Cir. 2016); cf. *Judicial Watch, Inc. v. Kerry*, 844 F.3d 952, 955—956 (D.C. Cir. 2016).

¹³ See *Competitive Enterprise Institute v. Office of Science & Tech. Policy*, ___, slip op. at 8 (D.D.C. Dec. 12, 2016) (“The Government argues that because the agency had a policy requiring [the official] to forward all of his emails from his [personal] account to his business email, the [personal] account only contains duplicate agency records at best. Therefore, the Government claims that any hypothetical deletion of the [personal account] emails would still leave a copy of those records intact in [the official’s] work email. However, policies are rarely followed to perfection by anyone. At this stage of the case, the Court cannot assume that each and every work-related email in the [personal] account was duplicated in [the official’s] work email account.” (citations omitted)).

¹⁴ Presidential Memorandum – Managing Government Records, 76 Fed. Reg. 75,423 (Nov. 28, 2011), *available at* <https://obamawhitehouse.archives.gov/the-press-office/2011/11/28/presidential-memorandum-managing-government-records>; Office of Mgmt. & Budget, Exec. Office of the President, Memorandum for the Heads of Executive Departments & Independent Agencies, “Managing Government Records Directive,” M-12-18 (Aug. 24, 2012), *available at* <https://www.archives.gov/files/records-mgmt/m-12-18.pdf>.

¹⁵ *FOIA Improvement Act of 2016* § 2 (Pub. L. No. 114–185).

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U.S. 977 (1974). As you are aware, a *Vaughn* index must describe each document claimed as exempt with sufficient specificity “to permit a reasoned judgment as to whether the material is actually exempt under FOIA.”¹⁶ Moreover, the *Vaughn* index “must describe *each* document or portion thereof withheld, and for *each* withholding it must discuss the consequences of disclosing the sought-after information.”¹⁷ Further, “the withholding agency must supply ‘a relatively detailed justification, specifically identifying the reasons why a particular exemption is relevant and correlating those claims with the particular part of a withheld document to which they apply.’”¹⁸

In the event some portions of the requested records are properly exempt from disclosure, please disclose any reasonably segregable non-exempt portions of the requested records. If it is your position that a document contains non-exempt segments, but that those non-exempt segments are so dispersed throughout the document as to make segregation impossible, please state what portion of the document is non-exempt, and how the material is dispersed throughout the document.¹⁹ Claims of nonsegregability must be made with the same degree of detail as required for claims of exemptions in a *Vaughn* index. If a request is denied in whole, please state specifically that it is not reasonable to segregate portions of the record for release.

To ensure that this request is properly construed, that searches are conducted in an adequate but efficient manner, and that extraneous costs are not incurred, CfA welcomes an opportunity to discuss its request with HHS before you undertake your search or incur search or duplication costs. By working together at the outset, CfA and HHS can decrease the likelihood of costly and time-consuming litigation in the future.

Where possible, please provide responsive material in electronic format via email at koconnor@campaignforaccountability.org. Alternatively, our mailing address is Campaign for Accountability, 611 Pennsylvania Avenue SE, #337, Washington DC 20003. If it will accelerate the release, please also provide responsive material on rolling basis.

Fee Waiver Request

In accordance with 5 U.S.C. § 552(a)(4)(A)(iii) and 45 C.F.R. § 5.54, CfA requests a waiver of fees associated with processing this request for records. The subject of this request concerns the operations of the federal government, and the disclosures will likely contribute significantly to a better understanding of relevant government procedures by the general public. Moreover, the request is primarily and fundamentally for non-commercial purposes. 5 U.S.C. § 552(a)(4)(A)(iii).²⁰

CfA requests a waiver of fees because disclosure of the requested information is in the public interest because it is “likely to contribute significantly to public understanding of the operations

¹⁶ *Founding Church of Scientology v. Bell*, 603 F.2d 945, 949 (D.C. Cir. 1979).

¹⁷ *King v. U.S. Dep’t of Justice*, 830 F.2d 210, 223—24 (D.C. Cir. 1987) (emphasis in original).

¹⁸ *Id.* at 224 (citing *Mead Data Central, Inc. v. U.S. Dep’t of the Air Force*, 566 F.2d 242, 251 (D.C. Cir. 1977)).

¹⁹ *Mead Data Central*, 566 F.2d at 261.

²⁰ *See, e.g., McClellan Ecological Seepage Situation v. Carlucci*, 835 F.2d 1282, 1285 (9th Cir. 1987).

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or activities of the government.”²¹ The disclosure of the information sought under this request will document and reveal the operations of the federal government, including how officials conduct the public’s business.

As noted above, the HHS employees whose communications are the subject of this request came to HHS with experience in reproductive rights and religious liberties. They now have the opportunity to exercise significant influence on administration policies regarding reproductive rights and religious liberties. The Susan B. Anthony List, Concerned Women for America, the Heritage Foundation, Family Research Council, Americans United for Life, National Right to Life, Alliance Defending Freedom, Christian Coalition, and March for Life have sought, and likely continue to seek, influence over such policies as well. The records CfA seeks will help the public understand whose interests are being considered as the administration makes decisions that have such a profound impact on people’s lives.

This request is primarily and fundamentally for non-commercial purposes. As a 501(c)(3) organization, CfA does not have a commercial purpose and the release of the information requested is not in CfA’s financial interest. CfA is committed to protecting the public’s right to be aware of the activities of government officials and to ensuring the integrity of those officials. CfA uses a combination of research, litigation, and advocacy to advance its mission. CfA will analyze the information responsive to this request, and will share its analysis with the public, either through memoranda, reports, or press releases. In addition, CfA will disseminate any documents it acquires from this request to the public through its website, www.campaignforaccountability.org.

Accordingly, CfA qualifies for a fee waiver.

News Media Fee Waiver Request

CfA also asks that it not be charged search or review fees for this request because CfA qualifies as a “representative of the news media” pursuant to the FOIA and HHS regulation 45 C.F.R. § 5.53. In *Nat’l Sec. Archive v. U.S. Dep’t of Defense*, 880 F.2d 1381, 1386 (D.C. Cir. 1989), the Court of Appeals for the District of Columbia Circuit found the National Security Archive was a representative of the news media under the FOIA, relying on the FOIA’s legislative history, which indicates the phrase “representative of the news media” is to be interpreted broadly; “[i]t is critical that the phrase ‘representative of the news media’ be broadly interpreted if the act is to work as expected . . . In fact, *any person or organization which regularly publishes or disseminates information to the public . . . should qualify for waivers as a ‘representative of the news media.’*” 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis added), cited in *id.* CfA meets this test.

CfA routinely and systematically “gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work

²¹ 45 C.F.R. § 5.54(a).

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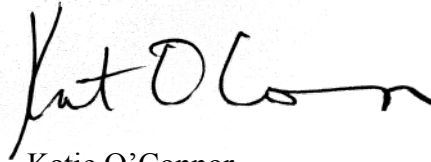
to an audience.”²² It does so by regularly posting documents it receives through open records laws, including the FOIA, to its website,²³ analyzing those documents, and publishing reports, letters, and further requests based those documents.²⁴ Based on its publication activities, CfA qualifies as a “representative of the news media” under the FOIA and agency regulations.

Conclusion

CfA looks forward to working with HHS on this request. If you do not understand any part of this request, have any questions, or foresee any problems in fully releasing the requested records, please contact me at 202-780-5750. Further, if CfA’s request for a fee waiver is not granted in full, please contact me immediately upon making such a determination.

Thank you for your assistance.

Sincerely,

A handwritten signature in black ink, appearing to read "Katie O'Connor", written in a cursive style.

Katie O'Connor
Legal Counsel

²² 45 C.F.R. § 5.3; 5 U.S.C. § 552(a)(4)(A)(ii)(III).

²³ Letter from Daniel Stevens, Executive Director, Campaign for Accountability, to Thomas B. Pahl, Acting Director, Bureau of Consumer Protection, Federal Trade Commission (July 19, 2017), *available at* <https://campaignforaccountability.org/work/ftc-solar-complaint/>; Letter from Katie O'Connor, Legal Counsel, Campaign for Accountability, to Margaret Moore, Travis County District Attorney (Sept. 26, 2017), *available at* <https://www.documentcloud.org/public/search/projectid:35338-CfA-Letter-to-Travis-County-DA-9-26-17>.

²⁴ Campaign for Accountability, *Utah Commission for the Stewardship of Public Lands*, Sept. 7, 2017, *available at* <https://campaignforaccountability.org/work/utah-commission-stewardship-public-lands/>; Campaign for Accountability, *Documenting Discrimination*, July 2016, *available at* <https://campaignforaccountability.org/work/documenting-discrimination/>; CfA Complaints Against the Heidi Group, Sept. 26, 2017, *available at* <https://campaignforaccountability.org/work/cfa-complaints-against-the-heidi-group/>.

CIVIL COVER SHEET

JS-44 (Rev. 7/16 DC)

I. (a) PLAINTIFFS CAMPAIGN FOR ACCOUNTABILITY (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF <u>11001</u> (EXCEPT IN U.S. PLAINTIFF CASES)	DEFENDANTS U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT <u>11001</u> (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>																								
(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER) Carey S. Busen Baker & Hostetler LLP Washington Square, 1050 Connecticut Ave., NW, Ste 1100 Washington, DC 20006; 202-861-1568	ATTORNEYS (IF KNOWN)																								
II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)	III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) FOR DIVERSITY CASES ONLY!																								
<div style="display: flex; justify-content: space-between;"> <div style="width:48%;"> <input type="radio"/> 1 U.S. Government Plaintiff </div> <div style="width:48%;"> <input type="radio"/> 3 Federal Question (U.S. Government Not a Party) </div> </div> <div style="display: flex; justify-content: space-between; margin-top: 10px;"> <div style="width:48%;"> <input checked="" type="radio"/> 2 U.S. Government Defendant </div> <div style="width:48%;"> <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III) </div> </div>	<table style="width:100%; border-collapse: collapse;"> <thead> <tr> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> <th></th> <th style="text-align: center;">PTF</th> <th style="text-align: center;">DFT</th> </tr> </thead> <tbody> <tr> <td>Citizen of this State</td> <td style="text-align: center;"><input checked="" type="radio"/> 1</td> <td style="text-align: center;"><input type="radio"/> 1</td> <td>Incorporated or Principal Place of Business in This State</td> <td style="text-align: center;"><input type="radio"/> 4</td> <td style="text-align: center;"><input checked="" type="radio"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td style="text-align: center;"><input type="radio"/> 2</td> <td>Incorporated and Principal Place of Business in Another State</td> <td style="text-align: center;"><input type="radio"/> 5</td> <td style="text-align: center;"><input type="radio"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td style="text-align: center;"><input type="radio"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="radio"/> 6</td> <td style="text-align: center;"><input type="radio"/> 6</td> </tr> </tbody> </table>		PTF	DFT		PTF	DFT	Citizen of this State	<input checked="" type="radio"/> 1	<input type="radio"/> 1	Incorporated or Principal Place of Business in This State	<input type="radio"/> 4	<input checked="" type="radio"/> 4	Citizen of Another State	<input type="radio"/> 2	<input type="radio"/> 2	Incorporated and Principal Place of Business in Another State	<input type="radio"/> 5	<input type="radio"/> 5	Citizen or Subject of a Foreign Country	<input type="radio"/> 3	<input type="radio"/> 3	Foreign Nation	<input type="radio"/> 6	<input type="radio"/> 6
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IV. CASE ASSIGNMENT AND NATURE OF SUIT

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> A. Antitrust <input type="checkbox"/> 410 Antitrust	<input type="radio"/> B. Personal Injury/Malpractice <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Medical Malpractice <input type="checkbox"/> 365 Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Product Liability	<input type="radio"/> C. Administrative Agency Review <input type="checkbox"/> 151 Medicare Act <u>Social Security</u> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <u>Other Statutes</u> <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> D. Temporary Restraining Order/Preliminary Injunction Any nature of suit from any category may be selected for this category of case assignment. *(If Antitrust, then A governs)*
<input checked="" type="radio"/> E. General Civil (Other) OR <input type="radio"/> F. Pro Se General Civil			
<u>Real Property</u> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property <u>Personal Property</u> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<u>Bankruptcy</u> <input type="checkbox"/> 422 Appeal 27 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <u>Prisoner Petitions</u> <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Conditions <input type="checkbox"/> 560 Civil Detainee – Conditions of Confinement <u>Property Rights</u> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <u>Federal Tax Suits</u> <input type="checkbox"/> 870 Taxes (US plaintiff or defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC 7609	<u>Forfeiture/Penalty</u> <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other <u>Other Statutes</u> <input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 430 Banks & Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 470 Racketeer Influenced & Corrupt Organization <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Satellite TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions (if not administrative agency review or Privacy Act)

<input type="radio"/> G. Habeas Corpus/ 2255 <input type="checkbox"/> 530 Habeas Corpus – General <input type="checkbox"/> 510 Motion/Vacate Sentence <input type="checkbox"/> 463 Habeas Corpus – Alien Detainee	<input type="radio"/> H. Employment Discrimination <input type="checkbox"/> 442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation) *(If pro se, select this deck)*	<input type="radio"/> I. FOIA/Privacy Act <input checked="" type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 890 Other Statutory Actions (if Privacy Act) *(If pro se, select this deck)*	<input type="radio"/> J. Student Loan <input type="checkbox"/> 152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> K. Labor/ERISA (non-employment) <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Labor Railway Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="radio"/> L. Other Civil Rights (non-employment) <input type="checkbox"/> 441 Voting (if not Voting Rights Act) <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 445 Americans w/Disabilities – Employment <input type="checkbox"/> 446 Americans w/Disabilities – Other <input type="checkbox"/> 448 Education	<input type="radio"/> M. Contract <input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contracts <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<input type="radio"/> N. Three-Judge Court <input type="checkbox"/> 441 Civil Rights – Voting (if Voting Rights Act)

V. ORIGIN
☒ 1 Original Proceeding
 ☐ 2 Removed from State Court
 ☐ 3 Remanded from Appellate Court
 ☐ 4 Reinstated or Reopened
 ☐ 5 Transferred from another district (specify)
 ☐ 6 Multi-district Litigation
 ☐ 7 Appeal to District Judge from Mag. Judge
 ☐ 8 Multi-district Litigation – Direct File

VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)
 Plaintiff is seeking declaratory and injunctive relief to compel compliance with requirements of FOIA (5 U.S.C. § 522, 28 U.S.C. § 1361)

VII. REQUESTED IN COMPLAINT	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$	JURY DEMAND: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
VIII. RELATED CASE(S) IF ANY	(See instruction)	YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	If yes, please complete related case form

DATE: 2/27/2018	SIGNATURE OF ATTORNEY OF RECORD: /s/ Carey S. Busen
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INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil cover sheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk's Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Campaign for Accountability

Plaintiff

v.

U.S. Department of Health and Human Services

Defendant

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)
)
)
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)
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Civil Action No. 18-cv-465

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

U.S. Department of Health and Human Services
200 Independence Ave., SW
Washington, DC 20201

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Carey S. Busen
Baker Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Ave., N.W.
Washington, DC 20036

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 18-cv-465

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Campaign for Accountability

Plaintiff

v.

U.S. Department of Health and Human Services

Defendant

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Civil Action No. 18-cv-465

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Jessie K. Liu
U.S. Attorney for the District of Columbia
555 4th Street NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Carey S. Busen
Baker Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Ave., N.W.
Washington, DC 20036

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 18-cv-465

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc:

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

Campaign for Accountability

Plaintiff

v.

U.S. Department of Health and Human Services

Defendant

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Civil Action No. 18-cv-465

SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

Jeff Sessions
United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

A lawsuit has been filed against you.

Within 30 days after service of this summons on you (not counting the day you received it) you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Carey S. Busen
Baker Hostetler LLP
Washington Square, Suite 1100
1050 Connecticut Ave., N.W.
Washington, DC 20036

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

ANGELA D. CAESAR, CLERK OF COURT

Date: _____

Signature of Clerk or Deputy Clerk

Civil Action No. 18-cv-465

PROOF OF SERVICE*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* _____
 was received by me on *(date)* _____.

☐ I personally served the summons on the individual at *(place)* _____
 _____ on *(date)* _____; or

☐ I left the summons at the individual's residence or usual place of abode with *(name)* _____
 _____, a person of suitable age and discretion who resides there,
 on *(date)* _____, and mailed a copy to the individual's last known address; or

☐ I served the summons on *(name of individual)* _____, who is
 designated by law to accept service of process on behalf of *(name of organization)* _____
 _____ on *(date)* _____; or

☐ I returned the summons unexecuted because _____; or

☐ Other *(specify)*: _____.

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0.00.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: